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**To:** Dr. Christopher Low / USPTO Art unit 1653 **From:** Ashley Davis Ph.D.

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**Fax:** 571-273-0951 *Official + Mailed 1-24-04 9*  
*703-872-4306* **Pages:**

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**Date:** January 24, 2004 *Call 703 308 2923 on Tuesday*

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**Re:** USPTO application # 09/725/030 and Letter to Dr. Lukton dated December 2<sup>nd</sup> 2003

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Dear Dr. Christopher Low,

Thank you for your phone call concerning the frustration I am experiencing when trying to communicate with Dr. Lukton. I have attached the letter Fedex'd to him on December 3<sup>rd</sup> (see attached Fedex tracking). As you can see the letter states in the top paragraph that the New Claims 23 and 24 are the new claims which are replacing original Claims 1 and 2. See at the end of the letter for the Amended Claims List, you will clearly see the NEW Claims 23 and 24.

I cannot see why this isn't clear.

In addition, the reason those claims were removed in the first place was at the insistence of Dr. Lukton who wrote that I could only Claim for a compound or a mechanism of drug action but not both (see July 20<sup>th</sup> 2003 letter under 35 USC §121). Now I realize this was inaccurate counseling because USPTO # 6,660,767 clearly claims a compound and a mechanism.

In addition, Dr. Lukton does not understand the mechanism of cell cycle arrest, he believes it is a rigid system like a clock's mechanism in which all cogs stop if one is impeded. This has not been the state of knowledge for over 20 years! It is well known that if one part of the cell cycle is inhibited then the other parts of the cell cycle will proceed un-impeded until they reach the inhibited part, then they will arrest.

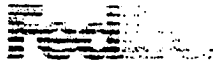
These aspects are all very frustrating and impeding the useful years of the present application. USPTO # 6,660,767 was filed after our date and is already approved! I am asking for the examiner to be changed to a new one (Dr. Misook Yu in Art unit 1642 seems to be well versed on current biology), or maybe because this application ended up in the wrong Unit, just transfer this application to another unit entirely.

At your earliest convenience I am looking forward to hearing from you.

Ashley Davis,

Tel: 303-322-2254.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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First named inventor: Ashley Davis  
Application no.: 09/725,030 Amendments #3  
Filed: 11/29/00  
Title: Anti-S-phase tubulin ligands

Examiner: Lukton, D  
Art Group: 1653

JAN 28 2004

## AMENDMENT AND RESPONSE UNDER 37 C.F.R. # 1.111(a)

Mailed to: Box Amendment, Commissioner for Patents, Mail Stop AF, Arlington VA 22202.

December 2nd 2003

Dr. David Lukton  
Patent Examiner  
USPTO  
Patent Applications  
Alexandria VA 22313.  
Tel: 703-308-3213.

Ref: 09/725,030

Mail to:  
Dr. David Lukton Patent Examiner  
USPTO Mail Stop: Patent Applications  
2011 South Clark Place  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington VA 22202. Tel 703-308-2923

Dear Dr. David Lukton:

In response to the Office communication dated 11-7-2003 with respect we submit the following:

New Claims 23 and 24 have been added, this is a reversal of the prior submission where we indicated these Claims should be removed. We apologize for the confusion but we contend that the compound and its primary mechanism of action are patentable discoveries that came about by intensive work in this area, and that their combined effect is very novel as explained fully in Davis et al. 1999.

Claim 6 and 7 – Please delete these claims because of 35 USC §112 as the examiner has explained clearly that these items are not patentable.

Claim 5 – BAABE is clearly stated in USP 6-294-695 which was not available prior to this application being submitted – so we request that this claim be deleted.

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